

SECTION 1

Overview of ADA Paratransit Eligibility

Introduction

This section describes the regulatory requirements for providing ADA complementary paratransit service and the criteria that define “ADA paratransit eligibility.” The specific regulatory text describing the criteria for ADA paratransit eligibility is provided along with examples of eligibility in each regulatory category. The eligibility of “visitors” and the requirement to also serve companions and personal attendants are also described.

Key differences between ADA paratransit eligibility and the kinds of eligibility for demand-responsive services provided prior to the ADA are also noted. This includes a discussion of the civil rights nature of ADA paratransit eligibility, the fact that eligibility is based on functional abilities, the concept of “trip eligibility,” and the need to consider the most limiting conditions of travel in making eligibility determinations.

A test that includes questions about key ADA paratransit eligibility concepts is then provided at the end of this section. An answer sheet for the test is provided in the “Instructor’s Guide” section of this workbook.

The information presented in this section is taken largely from the *Americans with Disabilities Act (ADA) Paratransit Eligibility Manual*, prepared for the Federal Transit Administration in September of 1993 (USDOT report # DOT-T-93-17). Minor modifications have been made to reflect the current status of ADA paratransit implementation, to reflect latest guidance on ADA paratransit eligibility, and to remove or condense text not directly relevant to ADA paratransit eligibility.

Who Must Develop an ADA Paratransit Eligibility Determination Process?

Access to mainline, fixed route transportation services is the main goal of the transportation provisions of the ADA. The law recognizes, however, that some persons with disabilities are not able to use fixed route services even if these services are fully accessible. The law also acknowledges that many fixed route systems are not accessible and that alternative means of transportation are needed until full accessibility is achieved. Complementary paratransit service is required by Section 223 of the ADA to serve those persons whose needs cannot be met by fixed route systems.

All public entities which operate non-commuter fixed route transportation services for the general public are required to also provide complementary paratransit service. This paratransit service must be comparable to the fixed route service. Six service criteria which define comparability are detailed in the USDOT implementing regulations.³

³ ADA complementary paratransit service requirements and the six service criteria are contained in 49 CFR Part 37, Sections 37.121 and 37.131.

Complementary paratransit service is to be provided to those individuals determined to be **ADA paratransit eligible** when these individuals are unable to use the fixed route service to meet particular trip needs. As described below, the regulations provide detailed guidelines which define who is to be considered ADA paratransit eligible and what trips are to be considered eligible.

All public entities which operate complementary paratransit services must establish a process for certifying individuals as ADA paratransit eligible. Requests for certification must be accepted and processed for local residents and long-term visitors.

An eligibility determination process must be established even if the public entity operates a paratransit system with broader eligibility requirements than the ADA. All potentially ADA paratransit eligible persons may be covered by the broader system, but individuals must have the opportunity to apply for and receive documentation of ADA paratransit eligibility which can be used in other areas.

How is ADA Paratransit Eligibility Defined in the Regulations?

Eligibility for complementary paratransit service is directly related to the inability of a person with a disability to use the existing fixed route service. A person's inability to use the fixed route service could be related to the fact that the system has not yet been made fully accessible. It could also result from the nature of a person's disability. The person may not be able, due to their disability, to get to or from the system or to board, ride, and disembark from the vehicles even if they are fully accessible.

While eligibility is conferred on individuals, it is conferred based on the fact that there are certain *trips* that the person cannot make on the fixed route system. For some individuals, their disabilities may prohibit them from ever using the fixed route service. For others, however, they may not be able to use the fixed route service under certain circumstances. ADA paratransit eligibility can, therefore, be considered as having two elements. First, an *individual* is considered ADA paratransit eligible if there are *any circumstances* under which the fixed route system cannot be used. Second, the extent of eligibility conferred on an individual depends on the conditions and circumstances under which they are not able to travel on the fixed route service. Individuals who can never use the fixed route service are *unconditionally eligible*. Persons who can use fixed route service in certain circumstances are *conditionally eligible* and the limitations on their eligibility should be determined.

Because the regulations establish this concept of trip-by-trip eligibility, it is important that the eligibility determination process be detailed enough to identify not only eligible individuals but to determine the conditions under which their specific trip requests would be eligible.

The regulations describe three specific circumstances under which a person would be considered **ADA paratransit eligible**. Within the industry, these have been referred to as the three "categories" of eligibility. The regulations also require that service be provided to attendants and companions of eligible individuals and to visitors from outside a transit district's jurisdiction.

Following is a detailed discussion of each of the three "categories" of eligibility and of requirements for serving companions, attendants, and visitors.

“Category 1” Eligibility

The first category of eligibility includes those persons unable to use fully accessible fixed route services. Included in this category is:

"Any individual with a disability who is unable, as the result of a physical or mental impairment (including a vision impairment), and without the assistance of another individual (except the operator of a wheelchair lift or other boarding assistance device), to board, ride, or disembark from any vehicle on the system which is readily accessible to and usable by individuals with disabilities." [§37.123(e)(1)]

Examples of eligibility under this category would include:

- a person with a cognitive disability who cannot "navigate the system." Navigating the system might involve obtaining and understanding system information, recognizing and boarding the correct vehicle, recognizing destinations, and understanding transfers that might have to be made;
- a person with a vision impairment who cannot "navigate the system." Entering and traveling through a busy station or transit center may not be possible. Recognizing and boarding the correct vehicle, and recognizing the appropriate destination - even though announcements are made - are also considerations;
- a person with a physical disability who cannot stand on a crowded bus or rail car when seats, including priority seats, may not be available;

It is important to note that eligibility under this category depends on the complexity of the fixed route system. The type and extent of disability that would confer eligibility in a rural area with a one or two route bus system would be different from that in a large urban system. Transit providers should base determinations on the characteristics of their fixed route service and the abilities needed to use it.

Other key issues and questions associated with this category of eligibility are summarized below.

- (1) Travel training: Many persons who cannot negotiate the entire fixed route system can be travel trained for certain trips. Typically, training is provided for trips that the person makes frequently, such as to work or school. These individuals would only be ADA paratransit eligible for trips they have not been trained to make on fixed route. As part of the application and determination process, it should be determined if such training has been provided.

Individuals cannot, however, be required to participate in travel training. The public entity may choose to offer training and may encourage individuals to take advantage of this service. Until the individual takes advantage of this service and is adequately trained, paratransit service must be provided.

- (2) Operator assistance: Eligibility under this category is not necessarily based on a person's ability to get on and off the lift, up and down a ramp, to and from the securement area, or secure their mobility device. While the regulation states that a person is eligible for paratransit service if they cannot independently use the fixed route system, operator assistance is assumed. The regulations, in fact, specify the level of assistance that must be provided by the public entity. Section 37.165(f) of the regulations states that "the drivers or other personnel must provide assistance with the use of lifts, ramps, and securement devices." Beyond this level of required assistance, however, public entities may choose to offer additional assistance, such as assistance getting to and from the securement area, in order to enable persons to utilize the fixed route service. If the individual is able to use the fixed route system with this assistance, complementary paratransit service does not have to be provided. Local policy concerning operator assistance should be developed with full public participation, including the input of persons with disabilities;
- (3) Assistance of another person: With the exception of assistance provided by the driver or other employees of the service, eligibility under this category is based on a person's ability to independently use the service. A person traveling with a friend or attendant is still eligible for paratransit service even if they would be able to use the fixed route system with this other person's help.
- (4) Accommodating mobility aids: The regulations set standards for vehicle and station/stop accessibility. To be considered accessible, equipment and facilities must be able to accommodate mobility aids of a certain size and persons and mobility aids up to a certain weight. The regulations define a "common wheelchair" as a "wheelchair" which does not exceed 30 inches in width and 48 inches in length (measured two inches above the ground) and which does not weigh more than 600 pounds when occupied. A "wheelchair" is defined as any mobility aid belonging to any class of three or four-wheeled devices, usable indoors, designed for and used by individuals with mobility impairments, whether operated manually or powered.

All common wheelchairs and their users are to be accommodated on accessible fixed route and complementary paratransit systems. The regulations do not, however, require public entities to provide service to persons using mobility aids that are not "common wheelchairs". An individual would not be eligible for paratransit service under category 1 if they could not use an accessible bus because their mobility aid is too large or too heavy for the lift.

- (5) Standees on lifts: The regulations require public entities to allow persons with ambulatory disabilities who do not use wheelchairs (e.g., persons who use leg braces and canes) to enter the vehicle by standing on the lift. Therefore, individuals who cannot

climb the steps to get into a bus would not be eligible for paratransit service if they could enter the vehicle using the lift.

Category 2 Eligibility

The second category of eligibility includes:

"Any individual with a disability who needs the assistance of a wheelchair lift or other boarding assistance device and is able, with such assistance, to board, ride, and disembark from any vehicle which is readily accessible to and usable by individuals with disabilities if the individual wants to travel on a route of the system during the hours of operation of the system at a time, or within a reasonable period of such time, when such a vehicle is not being used to provide designated public transportation on the route." [§37.123(e)(2)]

The majority of persons eligible under this category would be those with ambulatory disabilities who could not enter an inaccessible rail facility or would need to travel on a vehicle with a lift or ramp and other accessibility features. This would include persons who use wheelchairs as well as persons who use other mobility aids such as walkers, leg braces, or canes.

Eligibility under this category depends on the accessibility of vehicles and stations/stops. A person is eligible for paratransit service if the fixed route on which they want to travel is not yet accessible. Guidance on exactly what constitutes an "accessible" fixed route is provided in the regulations and explanatory appendix. For example:

- A person is eligible if the bus route on which they want to travel is not 100 percent accessible. The requested trip would be eligible if the fixed route that would otherwise be used is only partially accessible (e.g., every other bus is accessible).
- Similarly, a person is eligible if they need to travel on a rapid or light rail system that is not yet accessible - meaning that all key stations are accessible and one car per train is accessible. An individual would be eligible in this example even if accessible fixed route bus service is provided in the same area.
- An individual is eligible for paratransit if a vehicle's lift or boarding device cannot be deployed at the stop which they want to use, or the stop is inaccessible for other reasons.
- An individual who uses a "common wheelchair" but cannot be served by the fixed route system because the lift on the vehicle they need to use does not meet the equipment standards contained in Part 38 of the regulation is eligible for paratransit service.

One important issue related to category 2 eligibility is the use of on-call bus services as a way to increase the overall accessibility of the fixed route service. Basically, on-call bus programs allow an individual to call in advance and request that an accessible bus be assigned to a particular route at a time when they need to travel. Typically, an on-call bus program is

implemented when a significant percent of the fixed route fleet is accessible. Successful programs have been implemented when 20-30 percent of all peak hour vehicles are accessible.

On-call bus services do not technically make the fixed route fleet fully accessible. Therefore, even if an on-call bus service is offered, individuals who are eligible under category 2 must be certified. On-call bus service is, however, considered an acceptable form of complementary paratransit service and can be provided in lieu of a separate van service to those who are eligible under this category.

A second important issue is how this category of eligibility should be treated by transit providers whose fixed route systems are fully accessible. Clearly, individuals who could use accessible vehicles would not be Category 2 eligible in these areas and transit districts are not required to include questions that address this category of eligibility in their application materials or assessment processes if the fixed route service is 100 percent accessible. These same individuals may not, however, be able to use inaccessible vehicles if they travel to other transit districts. Therefore, transit providers are encouraged to address this category of eligibility even if it is not applicable to their local system and to note on the eligibility documentation provided that individuals are ADA paratransit eligible if accessible fixed route vehicles are not available when needed.

Category 3 Eligibility

The third category of eligibility includes:

"Any individual with a disability who has a specific impairment-related condition which prevents such individual from traveling to a boarding location or from a disembarking location on such system." [§37.123(e)(3)]

Two important qualifiers to this category are included in the regulations. First, environmental conditions and architectural barriers not under the control of the public entity do not, when considered alone, confer eligibility. If, however, travel to or from a boarding location is prevented when these factors are combined with the person's specific impairment-related condition, paratransit service must be provided. Examples of architectural and environmental factors that, in combination with certain disabilities, could prevent travel include:

- the lack of curb-cuts or a reasonable alternative accessible path of travel
- the lack of sidewalks or alternative safe accessible path of travel
- the distance from the stop/station to the trip origin or destination
- steep terrain
- snow and/or ice
- extremes in temperature (hot or cold)
- major intersections or other difficult to negotiate architectural barriers
- temporary construction projects
- severe air pollution

Second, the specific impairment-related condition must prevent the person from using the fixed route system. Conditions which make getting to or from stops/stations more difficult do not confer eligibility. A determination of whether travel is difficult rather than "prevented" will need to be made. Appendix D of the regulations offers the following guidance to clarify the concepts of "prevented" travel and the relationship between architectural and environmental conditions and a person's disability:

"For anyone, going to a bus stop and waiting for a bus is more difficult and less comfortable than waiting for a vehicle at one's home. This is likely to be all the more true for an individual with a disability. But for many persons with disabilities, in many circumstances, getting to a bus stop is possible. If an impairment-related condition only makes the job of accessing transit more difficult than it might otherwise be, but does not prevent the travel, then the person is not eligible.

For example, in many areas, there are not yet curb cuts. A wheelchair user can often get around this problem by taking a less direct route to a destination than an ambulatory person would take. That involves more time, trouble, and effort than for someone without a mobility impairment. But the person can still get to the bus stop. On the basis of these architectural barriers, the person would not be eligible.

Entities are cautioned that, particularly in cases involving lack of curb cuts and other architectural barrier problems, assertions of eligibility should be given tight scrutiny. Only if it is apparent from the facts of a particular case that an individual cannot find a reasonable alternative path to a location should eligibility be granted.

If we add a foot of snow to the scenario, then the same person taking the same route may be unable to get to the bus stop. It is not the snow alone that stops him; it is the interaction of the snow and the fact that the individual has a specific-impairment related condition that requires him to push a wheelchair through the snow that prevents the travel.

Inevitably, some judgment is required to distinguish between situations in which travel is prevented and situations in which it is merely made more difficult. In the Department's view, a case of "prevented travel" can be made not only where travel is literally impossible (e.g., someone cannot find the bus stop, someone cannot push a wheelchair through the foot of snow or up a steep hill) but also where the difficulties are so substantial that a reasonable person with the impairment-related condition in question would be deterred from making the trip.

The regulation makes the interaction between an impairment-related condition and the environmental barrier (whether distance, weather, terrain, or architectural barriers) the key to eligibility determinations. This is an individual determination. Depending on the specifics of their impairment-related condition, one individual may be able to get from his home to a bus stop under a given set of conditions, while his next-door neighbor may not." [Appendix D to 49 CFR Part 37, §37.123]

Given the judgment required to determine if travel is truly prevented and the relationship between environmental conditions and an individual's disability, making eligibility determinations based on this third regulatory category is likely to be the most difficult. Figure 1-1 on the following page provides additional hypothetical examples to further define eligibility under this category. It includes situations that would result in a person being determined eligible as well as examples that would not confer eligibility.

Companions/Personal Care Attendants

Paratransit service also must be provided to a **attendant** traveling with an eligible rider. In addition to an attendant, the regulations require that service be provided to one **companion** accompanying an eligible rider. Other persons accompanying the rider are to be accommodated on a "space available" basis. Persons are considered to be accompanying the eligible rider if they are picked up and dropped off at the same locations as the eligible rider. Companions must be charged the same fare as the eligible rider and attendants must ride free.

The following additional guidance on requirements for serving attendants and companions is provided in the interpretive appendix to the regulations:

"The one individual who is guaranteed space on the vehicle can be anyone - family member, business associate, friend, date, etc. The provider cannot limit the eligible individual's choice of type of companion. The transit authority may require that the eligible individual reserve a space for the companion when the individual reserves his or her own ride. This one individual rides even if this means that there is less room for other eligible individuals. Additional individuals beyond the first companion are carried only on a space available basis; that is, they do not displace other ADA paratransit eligible individuals.

A personal care attendant (i.e., someone designated or employed specifically to help the eligible individual meet his or her personal needs) always may ride with the eligible individual. If there is a personal care attendant on the trip, the eligible individual may still bring a companion, plus additional companions on a space available basis. The entity may require that, in reserving the trip, the eligible individual reserve the space for the attendant.

To prevent potential abuse of this provision, the rule provides that a companion (e.g., friend or family member) does not count as a personal care attendant unless the eligible individual regularly makes use of a personal care attendant and the companion is actually acting in that capacity. As noted under §37.125, a provider may require that, as part of the initial eligibility certification process, an individual indicate whether he or she travels with a personal care attendant. If someone does not indicate the use of an attendant, then any individual accompanying him or her would be regarded simply as a companion." [Appendix D to 49 CFR Part 37, §37.123]

Figure 1-1. Examples of Eligibility Under Category 3

Situations that would result in eligibility under “category 3”:

- A person who is blind and who cannot cross a major intersection that is not equipped with assistive devices such as audible signals in order to get to or from a stop/station would be eligible to receive paratransit for that trip.
- A person with a cardiac condition who is sensitive to high temperatures and cannot walk to and wait outside for a bus during extremely hot weather would be eligible when this environmental condition exists.
- An individual with severe arthritis or multiple sclerosis whose disability is aggravated by high humidity would be eligible when this environmental condition, in combination with the disability, prevents the use of fixed route service.
- An individual who uses a manual wheelchair, walker, or braces and who cannot negotiate steep terrain would be eligible for paratransit if using fixed route service for a particular trip required crossing a hilly area.
- A person with an ambulatory disability who is unable to get to or from stops/stations due to a lack of curb cuts.
- A person with a cognitive impairment who is unable to remember and follow directions to get to and from a stop/station would be eligible for trips (s)he has not or cannot be trained to successfully make.
- A person who is frail and cannot independently travel more than 1/4 of a mile to get to or from stops/stations and whose particular trip is to a destination that is 1/2 mile from the nearest fixed route.
- A person with an ambulatory disability who cannot walk or maneuver a mobility device to or from stops/stations when there is an accumulation of snow or ice would be eligible in this type of weather.
- A person with a respiratory condition that is affected by high levels of air pollution would be eligible if using fixed route service under such environmental conditions is not advisable.

Situations that would not result in eligibility under category 3 include:

- A person with a disability who prefers not to use fixed route service due to the possibility of crime would not be eligible.
- A person who prefers not to use fixed route service when it is raining would not be eligible unless the rain or humidity in combination with a particular disability prevented him/her from getting to or from a stop/station.
- An infant or child with a disability who is unable to get to and from a stop/station and use the fixed route service not because of the disability but because of age.

As indicated above, an attendant may be an employee of the ADA paratransit eligible rider or may be a family member or friend. Regardless of the relationship, an attendant is clearly meant to be someone whose services are required by the rider. In determining if eligible individuals require attendant services, it is important to realize that the need for an attendant is not necessarily related to travel on the paratransit service. Attendants are often needed by individuals with disabilities to assist with other activities of daily living. For example, a quadriplegic may be assisted by an attendant in filing papers at work or in eating meals. A person who is blind may need an attendant to assist with shopping or to serve as a reader at work. Individuals may need attendants for these activities but be fully capable of traveling on the paratransit service with the assistance provided by transit personnel.

The need for attendant services can be intermittent or occasional and still be considered "regularly" needed. "Regular" use should be interpreted to be consistent with the underlying need - for example, a blind person regularly using a PCA for shopping. It is also important to note that once a person has been certified as needing to travel with an attendant, it should be the eligible individual, not the transit agency, that determines if an attendant is needed for a particular trip.

Visitors

The needs of visitors with disabilities who cannot use the fixed route system also are addressed in the regulations. Complementary paratransit service must be provided to ADA eligible individuals who travel to areas outside of the region in which they live. If these individuals have been certified as "ADA paratransit eligible" by a public entity, that certification must be honored and the host transit agency must provide up to 21 days of paratransit service. If individuals have not been certified as eligible by another public entity but claim that they are ADA paratransit eligible, they are entitled to "presumptive eligibility" and must be provided with 21 days of service. Individuals who are not certified by another transit provider and who claim presumptive eligibility can be requested to provide certain documentation such as their place of residence and the nature of their disability.

Individuals are only considered "visitors" if they reside outside of the transit provider's jurisdiction. The "jurisdiction" means the total area within which the provider is authorized to operate, not the sub-area designated as the ADA paratransit service area. In joint paratransit plans, the jurisdiction is considered the total area of all partners in the plan. The interpretive appendix to the regulation offers the following explanation and example:

"A visitor is defined as someone who does not reside in the jurisdiction or jurisdictions served by the public entity or other public entities with which it coordinates paratransit service. For example, suppose a five-county metropolitan area provides coordinated paratransit service under a joint plan. A resident of any of the five counties would not be regarded as a visitor in any of them. Note that the rule talks in terms of "jurisdiction" rather than "service area." If an individual lives in XYZ County, but outside the fixed route service area of that county's transit provider, the individual is still not a visitor for purposes of paratransit in PQR County, if PQR is one of the counties with which XYZ provides coordinated paratransit service." [Appendix D to 49 CFR Part 37, §37.127]

Visitors from communities outside the transit agency's jurisdiction must be served even if the community in which they reside does not contribute financially to the transit system.

The "21 days" of service that must be provided are to be calculated as any combination of 21 days during any 365-day period beginning with the visitor's first use of the service. For example, a person may visit two days a week. Eligibility should be extended in this case over the eleven week period of time within which 21 days of paratransit service would be required.

Visitors who require more than 21 days of service within a 365-day period can be required to apply for local eligibility.

Finally, the level of service provided to visitors must be the same as that provided to local ADA paratransit eligible individuals who would be traveling in the same area. This means that there can be no difference in the area within which visitors can travel, the times that they can travel, the fares charged, or any of the other service criteria established in the regulations. Visitors are to be treated exactly like eligible local customers.

Temporary Disabilities

Persons with temporary disabilities are to be considered for ADA paratransit eligibility. This may include:

- someone with a medical condition such as a broken leg who temporarily is unable to use the fixed route service;
- someone who has recently undergone an operation or other medical treatment and who is unable to use the fixed route service; or
- someone with a mental health disability who expects an improvement in functional abilities through treatment or medication.

Temporary eligibility should be granted for the period of time that the disabling condition is expected to last. An expiration date should be included on the documentation provided to individuals determined temporarily ADA paratransit eligible.

Key ADA Paratransit Eligibility Considerations

Many public transit providers offered paratransit services prior to the enactment of the ADA. In the mid-1970's, eligibility was determined by governing boards based on expressed local needs. Throughout the 1980's, transit providers which opted to meet their Section 504 obligations by offering paratransit service adopted the general definition of eligibility provided in that regulation.

Eligibility for ADA complementary paratransit service is different from these past notions of paratransit eligibility in four key ways. These differences are discussed below.

ADA Paratransit Eligibility as a Civil Right

Failure to conduct a determination process that meets the regulations or failure to provide complementary paratransit service in accordance with the requirements established in the regulations are violations of the civil rights of the affected individual. This difference between ADA paratransit and past services has several important implications for the eligibility determination process. First, in designing review procedures and policies, it is important that they adhere to all of the requirements contained in §37.123 and 37.125. All elements of the policy and process also should be formally adopted by each public entity with the public participation required in §37.137 of the regulations. Second, due process standards must be observed in appeals, suspensions of service, or in any other actions which affect a person's right to the service. This is particularly true once individuals have been determined eligible. In addressing the suspension of service for "no-shows", the interpretive appendix states:

"Once an entity has certified someone as eligible, the individual's eligibility takes on the coloration of a property right. (This is not merely a theoretical statement. If one depends on transportation one has been found eligible for to get to a job, and the eligibility is removed, one may lose the job. The same can be said for access to medical care or other important services.) Consequently, before eligibility may be removed "for cause" under this provision, the entity must provide administrative due process to the individual."[Appendix D to 49 CFR Part 37, §37.125].

Finally, transit providers should maintain adequate records of certification requests, reviews completed, notification provided, and any appeals requested and should be prepared to demonstrate that regulatory requirements were met in the handling of each request for eligibility. Applications should be dated upon receipt. Decisions made throughout the review process (e.g., the completeness of the application, the need for more information, reasons for determinations, requests for appeals, etc.) should be recorded.

Strictly Limiting Determinations of ADA Paratransit Eligibility

Given that ADA paratransit eligibility is a form of civil right, conferring eligibility should be done with careful consideration. Section 37.125(a) of the USDOT's ADA regulations require that:

"The process shall strictly limit ADA paratransit eligibility to individuals specified in §37.123 of this part." (Note that "§37.123 of this part refers to the section that contains the three categories of eligibility).

In explaining this requirement, further guidance is provided in Appendix D of the regulations as follows:

“The goal of the process is to ensure that only people who meet the regulatory criteria, strictly applied, are regarded as ADA paratransit eligible. The Department recognizes that transit entities may wish to provide service to other persons, which is not prohibited by this rule. However, the eligibility process should clearly distinguish those persons who are ADA eligible from those who are provided service on other grounds.”

So, for example, a transit agency may provide service to ADA paratransit eligible individuals as well as to seniors (based on an age criteria). Seniors who do not qualify as ADA paratransit eligible should not, however, be issued documentations (IDs or determination letters) that state they are ADA paratransit eligible. Their IDs or letters might indicate that they are eligible as seniors. The regulations intend that IDs or letters of determination stating that the bearer is “ADA paratransit eligible” be issued only to persons who meet the regulatory criteria for eligibility.

Functionally-Based Determinations of Eligibility

Many policies prior to the ADA conferred paratransit eligibility based on a particular medical condition, disability, or on the use of a particular mobility aid. For example, persons were certified as paratransit eligible if they were "blind" or "legally blind". Individuals who used wheelchairs, walkers, or leg braces were considered eligible for paratransit. Certification from a social service agency or a medical professional that the person used a particular aid or had a particular disability automatically conferred paratransit eligibility.

ADA paratransit eligibility, however, is based not just on the presence of a disability, but on the effect that the disability has on the person's ability to use the fixed route service. Several factors must be considered in determining ADA paratransit eligibility. These include:

- (1) the applicant's disability;
- (2) the accessibility of the fixed route system;
- (3) architectural barriers that, in combination with the person's disability, prevent use of the fixed route service; and
- (4) environmental conditions that, in combination with the person's disability, prevent use of the fixed route service.

While documentation of a particular disability or use of a mobility aid is still important, this information alone can not be used to make an eligibility determination. Questions about the functional ability of the applicant to use fixed route transit must be included in the application or assessment process. The accessibility of the fixed route service and the effects of environmental and architectural barriers must also be considered.

Conditional or "Trip-by-Trip" Eligibility

The paratransit eligibility processes employed by most transit providers prior to the ADA used an "all or nothing" determination approach. If it was determined that certain persons met the criteria established for eligibility, they could call and request paratransit service for *any* trip. If they were determined to not be eligible, they could not request *any* rides. The ability to use the fixed route system for some trips and not for others was not considered.

Under the ADA, complementary paratransit service is only required for trips that cannot be made on the fixed route system. Many persons may qualify because there are certain specific conditions which prevent them from using the fixed route service. For example, a person who uses a wheelchair may be able to use accessible fixed route buses during most of the year, but may require paratransit service when traveling on a route that is not fully accessible, when traveling when there is a significant accumulation of snow, or when there is not a safe and accessible path of travel to and from bus stops. Such a person would be ADA paratransit eligible. Eligibility would be for trips that are not served by accessible fixed routes, for trips that are prevented due to an accumulation of snow, and for trips prevented due to the lack of a safe and accessible path of travel to/from stops/stations. The documentation of ADA paratransit eligibility provided to this individual should identify these conditions of eligibility.

While transit providers must identify whether or not applicants are conditionally or unconditionally eligible and must include limitations of eligibility in the documentation provided, they are **not** required to conduct trip-by-trip determinations in daily operation. If full compliance with the paratransit requirements can be achieved within the allowed implementation period, a broader service can be provided. If an undue financial burden waiver is eventually requested, however, only those costs associated with the provision of eligible trips can be used to calculate ADA paratransit costs. An ability to distinguish between trips that are eligible and those that are not will be needed.

Determining Eligibility Based on the Most Limiting Factors

Determinations of ADA paratransit eligibility must consider the ability of applicants to travel to *any* origins and destinations in the paratransit service area under *all* possible conditions. Determinations cannot be based on a person's ability to use fixed route service some of the time or under "typical" conditions. For example, a person with an ambulatory disability may live only one block from the nearest bus stop and the terrain between their home and the stop may be level and accessible. They may not be able, though, to independently travel more than 1/2 mile and may not be able to negotiate steep terrain. Even though this person could get to the fixed route system from their home, there would be possible destinations more than 1/2 mile from fixed routes that she or he would not be able to reach. There may be other destinations in areas of steep terrain that would also be inaccessible. Conditional eligibility would therefore be appropriate.

Section 1 Test

After reading the “Overview of ADA Paratransit Eligibility” section above, answer or discuss the following questions and issues to test your understanding of key concepts and issues.

For each statement below, circle whether it is true or false and then discuss the underlying concepts with the instructor.

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| 1. Public entities which provide ADA complementary paratransit service are required to have a process for determining who is ADA paratransit eligible. | T | F |
| 2. Only persons who meet the regulatory criteria for ADA paratransit eligibility should be issued documentation indicating that they are “ADA paratransit eligible.” | T | F |
| 3. Public transit agencies can only provide paratransit service to persons who are determined to be ADA paratransit eligible. | T | F |
| 4. A person with a disability who lives outside of the designated ADA complementary paratransit service area cannot apply for ADA paratransit eligibility. | T | F |
| 5. Public transit agencies are not required to provide service to someone who uses a wheelchair that exceeds the size or weight limits of a “common wheelchair.” | T | F |
| 6. If a transit agency makes a “reasonable” percentage of buses on a route accessible (e.g., every other bus), persons with disabilities can be asked to use the accessible buses and trips in that corridor are not ADA paratransit eligible. | T | F |
| 7. Transit agencies are required to allow persons with disabilities other than those who use wheelchairs (e.g., persons who use walkers, crutches, etc.) to enter and exit vehicles by standing on the lift. | T | F |
| 8. ADA paratransit eligibility is based on functional ability to use fixed route bus and rail services. | T | F |
| 9. To be able to use fixed route service, individuals with disabilities who use wheelchairs must be able to independently get on and off lifts (or up and down the ramps of low-floor buses). | T | F |

4. A man with AIDS needs to get medical treatment on a daily basis. On most days, he is well enough to travel using the subway, but on other days he is prevented from doing so by severe fatigue. He seeks subscription trips for daily transportation to a clinic.
5. On occasion, a woman with a mobility impairment, who uses a walker, has made the trip to a bus stop to get to the doctor's office. The three-block walk to the bus stop takes her more than half an hour. She has just qualified for ADA paratransit, however, and seeks to make the trip to the doctor using that service instead.
6. A 6-year old child with spina bifida, who uses a wheelchair, needs to get to day-care. His mother seeks paratransit trips for the child.
7. The lack of curb cuts in a downtown area of Philadelphia forces a man using a wheelchair to travel in busy downtown streets to get to the office from the bus stop.

8. All the buses operated by the New York Transit Authority are accessible, but some key stations in the subway system have not yet been made accessible. Residents of the Bronx (at the north side of the city) can get to the mid-town office district by buses or by subway. A Bronx man with a mobility impairment cannot climb a flight of stairs. He can board a bus but the subway stations have no elevators. Because the bus trip involves two transfers and takes 2 hours, versus 30 minutes on the train, he has requested paratransit service.
9. A man from the western suburbs of Boston who uses a wheelchair can drive to the park-and-ride lot, but the Green Line trains that stop there are not accessible. He seeks paratransit to get into the city.
10. During the long winters, snow piles up on the curbsides of Pittsburgh streets. This often prevents the operation of the lift that a man needs to utilize the bus. He therefore requests "seasonal eligibility" permitting all trips during the winter to be made on paratransit.
11. A woman requests trips to and from her dialysis treatments, which leave her "too exhausted" to use the bus.

12. A woman with moderate mental retardation has traveled with her parents on the bus since she was a child. She cannot travel alone without becoming lost, however, even when using paratransit service. Her parents are seeking paratransit service for the woman and an attendant.